

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Newport News Division

UNITED STATES OF AMERICA,	)	Criminal No. 4:17cr76
	)	
v.	)	
	)	
ELMER EMMANUEL EYCHANER, III,	)	
	)	
Defendant.	)	

BILL OF PARTICULARS

The United States of America, through its attorneys, Tracy Doherty-McCormick, Acting United States Attorney, and Megan M. Cowles, Assistant United States Attorney, respectfully submits this Bill of Particulars, in response to the Court's order. ECF 33.

I. Background

On August 16, 2017, the defendant, ELMER EMMANUEL EYCHANER, was charged in a five-count indictment by a federal grand jury sitting in Newport News, Virginia. The indictment charges the defendant with Access with Intent to View Visual Depictions of Minors Engaging in Sexually Explicit Conduct, in violation of 18 U.S.C. § 2252(a)(4)(B) (Count One); Attempted Receipt of Obscene Visual Representations of the Sexual Abuse of Children, in violation of 18 U.S.C. § 1466A(a)(1) (Count Two); Destruction of a Tangible Object to Impede a Federal Investigation, in violation of 18 U.S.C. § 1519 (Count Three); Obstruction of Justice- Attempted Evidence Tampering, in violation of 18 U.S.C. § 1512(c)(1) (Count Four); and Penalties for Registered Sex Offender, in violation of 18 U.S.C. § 2260A (Count Five).

These charges stem from the defendant's activity on a government monitored laptop computer on November 17, 2016. The defendant was on federal supervised release for a federal possession of child pornography conviction in the Eastern District of Virginia in 2008. A

company, RemoteCOM, was monitoring his activity on the computer pursuant to an agreement. On November 18, 2016, the defendant called Senior United States Probation Officer Candice Yost to report his activity regarding child pornography. However, the defendant destroyed the hard drive and told Probation Officer Yost that he threw the hard drive in a sewer on the way to work. The United States never recovered the hard drive, and is instead relying upon eight PDF documents containing screenshots of the defendant's computer activity on November 17, 2016. The screenshots include the defendant's search history on Bing.com, including search terms and files and images that were generated pursuant to those search terms. The pages depicting obscene material and child pornography contain multiple images per page.

Probation Officer Mako downloaded the eight PDF documents to a disc, and gave the disc to Senior Probation Officer Yost to review for the defendant's supervised release violation in case 2:07cr183. This disc was subsequently provided to the United States Attorney's Office, and has been made available for review, along with paper copies of the PDF documents, by defense counsel. To date, defense counsel has viewed these materials on five separate occasions, including September 11, 2017, February 27, 2018, April 13, 2018, April 25, 2018, and April 30, 2018.

The disc contains eight PDF documents labeled: Screenshots Detail-1, Screenshots Detail-2, Screenshots Detail-3, Screenshots Detail-4, Screenshots Detail-5, Screenshots Detail-6, Screenshots Detail-7, and Screenshots Detail-8.

## II. Evidence

### Screenshots Detail-1

Screenshots Detail-1 is a 101 page PDF document of screenshots taken of the defendant's laptop computer ranging in time from approximately 7:56:28 PM to 8:16:59 PM on November 17, 2016. This report contains screenshots showing searches for how to delete or uninstall Microsoft

Edge and Cortona at approximately 7:57 PM, and a deletion of search history at approximately 8:03 PM. The United States does not allege that Screenshots Detail-1 contains websites visited in violation of 18 U.S.C. § 2252(a)(4)(B), a visual depiction of a minor engaging in sexually explicit conduct, as charged in Count One, or obscene visual representations of the sexual abuse of children, as charged in Count Two.

#### Screenshots Detail-2

Screenshots Detail-2 is a 100 page PDF document of screenshots taken of the defendant's laptop computer ranging from approximately 6:39:25 PM to 7:59:13 PM on November 17, 2016.

The United States alleges that the defendant visited and conducted searches on Bing.com in violation of 18 U.S.C. § 2252(a)(4)(B). Bing.com is a web search engine owned and operated by Microsoft that provides web, video and image search services.

The United States alleges that the specific images containing a visual depiction of a minor engaged in sexually explicit conduct, as charged in Count One, are on the following pages: page 32 of 100, in the second row of photos, depicting lascivious exhibition of the genitals of a group of four nude minor females; page 39 of 100, in the second row of photos, depicting lascivious exhibition of the genitals of a nude minor female; and page 44 of 100, which is the same photo depicted on page 39. There are no file names associated with these images.

The United States alleges that the specific images that constitute obscene visual representations of the sexual abuse of children are contained on pages 31-33, 35-44, 46-58, and 60-100.

#### Screenshots Detail-3

Screenshots Detail-3 is a 100 page PDF document of screenshots taken of the defendant's laptop computer ranging from approximately 6:52:38 PM to 7:10:11 PM on November 17, 2016.

The United States does not allege that Screenshots Detail-3 contains websites visited in violation of 18 U.S.C. § 2252(a)(4)(B), or a visual depiction of a minor engaging in sexually explicit conduct, as charged in Count One.

The United States alleges that the images that constitute obscene visual representations of the sexual abuse of children, as charged in Count Two, are contained on pages 1 through 100.

#### Screenshots Detail-4

Screenshots Detail-4 is a 100 page PDF document of screenshots taken of the defendant's laptop computer ranging from approximately 7:10:21 PM to 7:27:04 PM on November 17, 2016.

The United States alleges that the defendant visited and conducted searches on Bing.com in violation of 18 U.S.C. § 2252(a)(4)(B). Bing.com is a web search engine owned and operated by Microsoft that provides web, video and image search services.

The United States alleges that the specific image containing a visual depiction of a minor engaged in sexually explicit conduct, as charged in Count One, is on pages 4 of 100 and 9 of 100. This is the same image, and depicts lascivious exhibit of the genitals of a prepubescent female minor and a nude penis directed toward the prepubescent female's genitals. The image is in the video section of Bing.com and does not have a file name. At the bottom left corner of the image is the text "preview not available."

The United States alleges that the images that constitute obscene visual representations of the sexual abuse of children, as charged in Count Two, are contained on pages 1 through 18, 20 through 23, 26 through 38, 40 through 73, 75 through 77, 80 through 100.

#### Screenshots Detail-5

Screenshots Detail-5 is a 100 page PDF document of screenshots taken of the defendant's laptop computer ranging from approximately 6:29:39 PM to 7:39:17 PM on November 17, 2016.

The United States alleges that the defendant visited and conducted searches on Bing.com in violation of 18 U.S.C. § 2252(a)(4)(B). Bing.com is a web search engine owned and operated by Microsoft that provides web, video and image search services.

The United States alleges that the specific images containing a visual depiction of a minor engaged in sexually explicit conduct, as charged in Count One, are on pages 71, 84, and 85. On page 71, the United States alleges the following specific images contain a visual depiction of a minor engaged in sexually explicit conduct: an image titled “Young Boy Nudist Only,” depicting oral-genital sexual intercourse; an image titled “Young Taboo”; an image titled “Young Submissive”; and the image in the bottom left corner with the webpage “CumaholicTeens.com” in the top left corner depicting oral-genital sexual intercourse. The United States alleges that the image which is in the middle row and second from the right depicts lascivious exhibition of a female minor. This same image is contained on page 85.

The United States alleges that the images that constitute obscene visual representations of the sexual abuse of children, as charged in Count Two, are contained on pages 1 through 3, 5 through 6, 8 through 11, 13 through 68, and 87 through 100.

#### Screenshots Detail-6

Screenshots Detail-6 is a 100 page PDF document of screenshots taken of the defendant’s laptop computer ranging from approximately 5:38:52 PM to 6:39:23 PM on November 17, 2016.

The United States alleges that the defendant visited and conducted searches on Bing.com in violation of 18 U.S.C. § 2252(a)(4)(B). Bing.com is a web search engine owned and operated by Microsoft that provides web, video and image search services.

The United States alleges that the specific images containing a visual depiction of a minor engaged in sexually explicit conduct, as charged in Count One, are on pages 21 and 100. The

image on page 21 is the same image contained on page 84 and 85 of the Screenshots Detail-5 report, and depicts the lascivious exhibit of the genitals of a minor female. The image on page 100 is the same image contained on page 32 of 100 of the Screenshots Detail-2 report, and depicts the lascivious exhibition of the genitals of a group of four nude minor females.

The United States alleges that the images that constitute obscene visual representations of the sexual abuse of children, as charged in Count Two, are contained on pages 1, 12, and 18.

#### Screenshots Detail-7

Screenshots Detail-7 is a 100 page PDF document of screenshots taken of the defendant's laptop computer ranging from approximately 5:57:47 PM to 6:18:35 PM on November 17, 2016.

The United States does not allege that Screenshots Detail-7 contains websites visited in violation of 18 U.S.C. § 2252(a)(4)(B), or a visual depiction of a minor engaging in sexually explicit conduct, as charged in Count One, or images that constitute obscene visual representations of the sexual abuse of children, as charged in Count Two.

#### Screenshots Detail-8

Screenshots Detail-8 is a 66 page PDF document of screenshots taken of the defendant's laptop computer ranging from approximately 10:38:35 PM through 10:51:42 PM on November 16, 2016, and 4:40:15 AM, 4:40:23 AM through 5:50:52 AM and 6:18:45 PM through 6:28:20 PM on November 17, 2016.

The United States alleges that the defendant visited and conducted searches on Bing.com in violation of 18 U.S.C. § 2252(a)(4)(B). Bing.com is a web search engine owned and operated by Microsoft that provides web, video and image search services.

The United States alleges that the same specific image containing a visual depiction of a minor engaged in sexually explicit conduct, as charged in Count One, is on pages 20, 21, and 22.

The image on these pages is the same image contained on page 32 of 100 of the Screenshots Detail-2 report and 100 of the Screenshots Detail-6 report, and depicts the lascivious exhibition of the genitals of a group of four nude minor females.

The United States does not allege that Screenshots Detail-8 report contains images that constitute obscene visual representations of the sexual abuse of children, as charged in Count Two.

Respectfully submitted,

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Acting United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that on the 4<sup>th</sup> day of May, 2018, I electronically filed the foregoing document for which conventional service is required with the Clerk of Court using the CM/ECF System, which will send notice of such filing to the following registered CM/ECF users:

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